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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/589,038

06/06/2000

Li Mo

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01/25/2005

Baker Botts LLP
2001 Rosse Avenue
Dallas, TX 75201-2980

EXAMINER

HO, CHUONG T

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/589,038	Applicant(s) MO ET AL.	
	Examiner Chuong Ho	Art Unit 2664	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12/28/04 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,3-10,19,21-29.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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1. The amendment filed 12/28/04 have been entered and made of record.
2. Claims 1, 3-10,19,21-29 are pending.
3. Applicant's amendment filed 12/28/04 with respect to independent claims 1, 19 have been fully considered but they are not persuasive.

In the claim 1, as per to Applicant's argument, the Applicant alleged that, see page 7, lines 5-9, For example, Claim 1 recites that the second path is distinct from the first protection path. For example, as described at page 10, lines 28-29 of the Application, the paths "are distinct in that they share no common nodes 14 or links."...However, there is no teaching that the protection paths are distinct in this passage or anywhere in the reference".

The Applicant's argument is not persuasive.

" The paths "are distinct in that they share no common nodes" **IS NOT** IN THE CLAIMS 1, 19.

Nishikawa (U.S. Patent No. 6,658,457) discloses the protection paths are distinct (see col. 6, lines 49-55, the path selector 14a then divides them into two segments (Da, Dc) and (Db, Dd) and distributes these segments to the paths P1 and P2 (two distinct protection paths, see figure 4), respectively. Because the system supports to the paths redundant transmission scheme, the above message should be placed not only the working paths, but also on the protection paths. That is, every data directed to the working subsystem has to be duplicated for transmission over the protection paths) (see col. 7, line 3, the signal may travel along different routes before reaching the same destination).

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The Applicant alleged that, page 7, " Furthermore, Claim 1 recites that "generating the first protection path and generating the second protection path each comprise decomposing the telecommunication network"....However, there is no teaching of the recited decomposition in this passage or anywhere else in the reference".

Egnell (U.S.Patent No. 6,574,192 B1) discloses "generating the first protection path and generating the second protection path each comprise decomposing the telecommunication network" (see figure 3A, col. 5, lines 3-7, Extra bi-directional links L1-L11 for protection are connected between the different nodes N1-N8, via multi direction cross points C1-C3 between the nodes) (See figure 3A, the first protection paths goes from N6 through protection paths L9, L6, L8 to N8; the second protection paths goes from N6 through the protection paths L11, L7, L8 to N8; two sub ring (L9, L6, L8) (L11, L7, L8) of the ring network arrive the same destination node N8). Therefore, Egnell (U.S.Patent No. 6,574,192 B1) discloses "generating the first protection path and generating the second protection path each comprise decomposing the telecommunication network".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong ho whose telephone number is (571)272-3133. The examiner can normally be reached on Monday-Friday from 8:00AM-4:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

01/10/05

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